

FILED

MARCH 2, 1984

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ATTORNEY GENERAL OF NEW JERSEY

NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

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STATE OF NEW JERSEY  
DEPARTMENT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS  
DOCKET NO. H83-5129  
OAL DOCKET NO. BDS 09923-83

IN THE MATTER OF THE SUSPENSION	:	
OR REVOCATION OF THE LICENSE OF	:	Administrative Action
	:	
ANDREW M. RODGERS, D.C.	:	SUPPLEMENTAL COMPLAINT
LICENSE NO. 1411	:	
	:	
TO PRACTICE CHIROPRACTIC IN	:	
THE STATE OF NEW JERSEY	:	
	:	

Irwin I. Kimmelman, Attorney General of New Jersey by  
Joan D. Gelber, Deputy Attorney General, with offices located at  
1100 Raymond Boulevard, Newark, New Jersey by way of Supplemental  
Complaint says:

COUNT VIII

1. Complainant repeats the allegations of Counts I  
through VII.

2. On or about 1983 respondent undertook to provide  
chiropractic care to patient L.J.T. He took three x-rays of the

patient dated February 8, 1983 and two x-rays dated March 28, 1983. The x-rays were incompetently taken in that:

- a) The A-P lumbar x-ray dated 2/8/83 was performed while the patient was permitted to wear clothing which obscured pertinent body structures;
- b) The A-P cervical-dorsal x-ray dated 2/8/83 was performed in a manner obliterating the atlas and the odontoid of the axis;
- c) The lumbar and cervical-dorsal x-rays failed to include left-right markers;
- d) The two neutral lateral cervical x-rays dated 3/28/83 are over-exposed and non-diagnostic in quality.

3. Each improperly taken x-ray constitutes a separate instance of professional misjudgment, whether the x-ray was taken by respondent or by his agents at his direction and ratified by him as shown by submission of the bill to Allstate Insurance Co. for said x-rays.

4. Said conduct fails to comply with accepted standards of practice of chiropractic and constitutes gross and/or repeated negligence or incompetence in violation of N.J.S.A. 45:1-21(c) and/or (d).

COUNT IX

1. Complainant repeats the allegations of Counts I through VIII.

2. Respondent submitted bills of \$ 30 per x-ray and on several occasions submitted treatment bills of \$30 and \$35 per visit during the 1983 treatment of patient L.J.T. Respondent's fees are exorbitant and excessive and constitute violation of N.J.S.A. 45:1-21(e). Fees billed after October 1, 1981 are additionally in violation of N.J.A.C. 13:35-6.19 (presently recodified as 13:35-6.11).

3. Each and every instance of demand for excessive fee constitutes a separate offense and violation of N.J.S.A. 45:1-21(e) and (h).

COUNT X

1. Complainant repeats the allegations of Counts I through IX.

2. Respondent billed for some 61 patient visits within seven months in 1983 for L.J.T. Said number of visits was totally unwarranted for treatment of the patient, given the diagnosis made by respondent of the patient's condition.

3. Said conduct constitutes professional misconduct and misrepresentation and/or professional incompetence, in violation of N.J.S.A. 45:1-21(b) and (e) and/or (d).

#### COUNT XI

1. Complainant repeats the allegations of Count X.
2. Respondent failed to prepare and maintain appropriate records including reports of subjective complaints on each visit; physical examination made; objective findings reported; report and analysis of x-rays taken; subluxations found, if any; diagnosis and refinements thereof over the course of treatment; treatment rendered on each visit; and progress notes.
3. Failure to prepare and maintain appropriate patient records constitutes violation of N.J.A.C. 13:35-6.12 (presently recodified as 13:35-6.5).
4. Each failure to prepare and maintain appropriate records constitutes a separate offense.

#### COUNT XII

1. Complainant repeats the allegations of Count X.
2. Respondent regularly submitted to Allstate Insurance Company inaccurate or false bills for dates of service allegedly rendered to L.J.T., which dates are not listed on his patient records. For example, certain dates appear in earlier but not subsequent bills, and vice versa, including the following:  
March 30, April 12, April 18, April 19, April 28, May 9, May 10, May 10, June 2, June 10, June 30, August 30, September 20, and September 27, 1983.
3. Respondent submitted various fee totals at variance with each other for the same span of treatment, i.e., for the

period March 28 through October 20, 1983 he billed \$1,355 on 10/21/83; \$2,075 on 12/13/83; and \$1,405 on 1/9/84.

4. Respondent's billing practices are negligent and/or deceptive and overreaching and/or constitute billing for services not rendered, all in violation of N.J.S.A. 45:1-21(d) and/or (e), and/or in violation of N.J.A.C. 13:35-6.11 (now recodified as 13:35-6.4) and N.J.S.A. 45:1-21(h).

#### COUNT XIII

1. Respondent holds himself out to his patients as authorized to offer "active treatment" and "maintenance care."

2. "Maintenance care," i.e. chiropractic treatment for a condition other than active effort to correct a specific vertebral misalignment accompanied by subjective complaint, is outside the scope of chiropractic as authorized in this State pursuant to N.J.S.A. 45:9-14.5 and as interpreted by the New Jersey State Board of Medical Examiners.

3. Each and every instance of "maintenance care" offered and billed either to a third party carrier or to a specific patient, in general and specifically as to patient Patricia Alexander, constitutes a separate transaction and a separate instance of misrepresentation and of professional misconduct, in violation of N.J.S.A. 45:1-21(b) and (e).

#### COUNT XIV

1. On or about November 1982 respondent undertook to provide chiropractic care for Mrs. N.J.C.

2. Respondent prepared and submitted to a third-party payor a bill purporting to set forth x-ray and examination dates, treatment dates, and reports of findings. Said bill alleged eight specified spinal adjustment treatment dates (11/26/82, 11/19/82, 12/20/82, 12/31/82, 1/6/83, 1/12/83 and 1/18/83) and billed for each date, a total of \$175. In addition, he billed \$50 for examination and report of findings.

3. In fact, respondent and/or his employee Christopher Pellino, D.C. treated N.J.C. on only four occasions: 11/19/82, 11/30/82, 12/20/82 and 1/18/83.

4. Submission of a bill listing and claiming fees for treatments which neither he nor his employee provided constitutes billing for services not rendered, misrepresentation, professional misconduct, and failure of good moral character, all in violation of N.J.A.C. 13:35-6.11, N.J.S.A. 45:1-21(b), (e) and (h), and N.J.S.A. 45:9-6.

#### COUNT XV

1. On or about October 1982 respondent undertook to provide chiropractic care to Mr. M.M.

2. Respondent prepared and submitted to a third-party payor a bill purporting to set forth treatment dates. Said bill alleged some 11 specified treatment dates and billed for each one, a total of \$275.

3. In fact, Mr. M.M. had sought treatment from respondent on only two occasions.

4. Submission of a bill listing and claiming fees for treatment which neither he nor his employee provided constitutes billing for services not rendered, misrepresentation, professional misconduct, and failure of good moral character, all in violation of N.J.A.C. 13:35-6.11, N.J.S.A. 45:1-21(b), (e) and (h), and N.J.S.A. 45:9-6.

COUNT XVI

1. On or about October 1982 respondent undertook to provide chiropractic care to Mrs. D.M.

2. Respondent prepared and submitted to a third-party payor a bill purporting to set forth treatment dates. Said bill alleged some ten specified treatment dates and bills for each one, totalling \$250.

3. In fact, Mrs. D.M. had sought treatment on only 3-4 occasions.

4. Submission of a bill listing and claiming fees for treatment which neither he nor his employee provided constitutes billing for services not rendered, misrepresentation, professional misconduct, and failure of good moral character, all in violation of N.J.A.C. 13:35-6.11, N.J.S.A. 45:1-21(b), (e) and (h), and N.J.S.A. 45:9-6.

WHEREFORE, complainant demands judgment against respondent Andrew M. Rodgers, D.C., as follows:

1. The suspension or revocation of the license to practice chiropractic heretofore issued to respondent Andrew M. Rodgers, D.C.;

2. An Order directing respondent Andrew M. Rodgers, D.C., to cease, desist and refrain from the practice of chiropractic in the State of New Jersey;
3. Imposition of penalties for each separate act as set forth in Counts I through XVII above;
4. Costs, including but not limited to costs of investigation, fact and expert witnesses, and trial transcripts;
5. Reimbursement to the patient or to third party insurance carrier of monies received; and
6. Such further relief as the Board of Medical Examiners shall deem just and appropriate.

IRWIN I. KIMMELMAN  
ATTORNEY GENERAL OF NEW JERSEY

By   
Joan D. Gelber  
Deputy Attorney General

DATED:

*February 27, 1984*